

execute the environmental impact determination and findings. If the conclusions reached are that there is no significant impact and there is compliance with the listed requirements, the format contained in exhibit I of this subpart will be used. If a significant impact is determined, the steps specified in §1940.320 of this subpart will be initiated for the preparation of the EIS. If a determination is made that the proposed action does not comply with the environmental requirements that are explained in this subpart and listed in Item 10b of Form FmHA or its successor agency under Public Law 103-354 1940-21 for a Class I action or Item XXIIb of exhibit H of this subpart for a Class II action and there are no feasible alternatives (practicable alternatives when required by specific provisions of this subpart), modifications, or mitigation measures which could comply, the action will be denied or disapproved. If the approving official's determination or findings differ from the recommendations of the preparer, concurring official or the SEC, this difference will be addressed in the manner specified in §1940.316 of this subpart.

(k) When there is no need for further review as discussed in paragraph (j) of this section and findings of compliance and a determination of no significant impact are reached, the assessment process is conditionally concluded. To conclude the assessment, the applicant will then be requested to provide public notification of these results as indicated in §1940.331(b)(3) of this subpart. The approving official will not approve the pending application for at least 15 days from the date the notification is last published. If comments are received as a result of the notification, they will be included in the environmental assessment and considered. Any necessary changes resulting from this consideration will be made in the assessment, impact determinations, and findings. If the changes require further implementation steps, such as the preparation of an EIS, they will be undertaken. If there are no changes in the findings and determination steps, such as the preparation of an EIS, they will be undertaken. If there are no changes in the findings and determinations, the approving official may continue to

process the application. The environmental documents, i.e., the assessment, related correspondence, Form FmHA or its successor agency under Public Law 103-354 1940-20, and the finding of no significant impact will be included with the approval documents which are assembled for review and clearance within the approving office.

(l) Whenever changes are made to an action or comments or new or changed information relating to the action's potential environmental effects is received after the assessment is completed but prior to the action's approval, such change, comment, or information will be evaluated by the approving official to determine the impact on the completed assessment. Whenever the contents or findings of that assessment are affected, the assessment process for that action will be revised and any other related requirement of this subpart met. Changes to an action in terms of its location(s), design, purpose, or operation will normally require, at a minimum, modification of the original assessment to reflect such change(s) and the associated environmental impacts.

(m) When comments are received after the action has been approved, the approving official will consider the environmental importance of the comments and the necessity and ability to amend both the action, with respect to the issue raised and the action's stage of implementation. The National Office may be consulted to assist in determining whether there are any remaining environmental requirements which need to be met under the specific circumstances. A similar procedure will be followed when new or changed information is received after project approval. Amendments and revisions to actions will be handled as specified in §§1940.310 through 1940.313 of this subpart.

§1940.319 Completing environmental assessments for Class I actions.

(a) As stated in this subpart, a main purpose of Form FmHA or its successor agency under Public Law 103-354 1940-21, is to provide a mechanism for reviewing actions with normally minimal impacts and for documenting a finding of no significant impact, as

well as compliance determinations for other applicable environmental laws, regulations and policies. The second major purpose is to serve as a screening tool for identifying those Class I actions which have more than minimal impacts and which, therefore, require a more detailed environmental review.

(b) The approach to reviewing a Class I action under the assessment format of Form FmHA or its successor agency under Public Law 103-354 1940-21 is exactly the same as for a Class II action. The preparer (as defined in §§1940.302(i) and 1940.316 of this subpart) must become familiar with the elements of the action, the nature of the environment to be affected, the relationship to any other Federal actions or related non-Federal actions, and the applicable environmental laws and regulations.

(c) The data submission requirements placed on the applicant for a Class I action are not as extensive as for a Class II action. The requirements are limited to completing the face of Form FmHA or its successor agency under Public Law 103-354 1940-20, as well as categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI, whenever a previously completed environmental analysis covering these categories is not available. Should it later be determined that the magnitude of the Class I action's impact warrants a more detailed assessment, the applicant will be required to submit the remaining items of the data request. Additionally, the circumstances under which FmHA or its successor agency under Public Law 103-354 does not require the submission of Form FmHA or its successor agency under Public Law 103-354 1940-20 by an applicant whose proposed action requires a Class I assessment are specified in §1940.317(f) of this subpart.

(d) The preparer must ensure that the data received from the applicant is complete, consistent, signed and dated before initiating the assessment. If it is not, the applicant will be required to make the necessary changes and clarifications. The reviewer must also ensure that the application properly meets the definition of a Class I action. Phased or segmented projects, as discussed in §1940.317(d) of this subpart, will be identified and the elements and

the size of the entire project used to classify the action.

(e) An important element of this assessment is to determine if the action affects an environmental resource which is the subject of a special Federal consultation or coordination requirement. Such resources are listed in the assessment format, Form FmHA or its successor agency under Public Law 103-354 1940-21, and include wetlands, floodplains, and historic properties, for example. If one of the listed resources is to be affected, the preparer must demonstrate the required compliance by accomplishing the review and coordination requirements for that resource. Documentation of the steps taken and coordination achieved will be attached. However, if more than one listed resource is to be affected, this will be viewed as the action having more than minimal impacts and the environmental assessment format for a Class II action will be initiated except if the action under review is an application for a Housing Preservation Grant.

(f) Similarly in completing item 3, General Impacts of Form FmHA or its successor agency under Public Law 103-354 1940-21, the assessment format for a Class II action must be initiated if more than one category of impacts cannot be checked as minimal. If there is a single category which needs analysis, this can be accomplished by attaching an appropriate exhibit addressing the questions and issues for that impact, as specified in the environmental assessment format for a Class II action. See §1940.311(b)(1) of this subpart for when an attached discussion of water quality impacts is mandatory.

(g) The comments of State, regional, and local agencies obtained through applicable permit reviews or the implementation of Executive Order 12372, Intergovernmental Review of Federal Programs, will be incorporated into the assessment, if this review applies to the action. The receipt of negative comments of an environmental nature will warrant the initiation of a more detailed assessment under the format for a Class II action (exhibit H of this subpart). Also, the issue of controversy must be addressed, and if the action is

controversial for environmental reasons, the environmental assessment format for a Class II action (exhibit H of this subpart) will be completed. However, if the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, air quality, for example, the analysis of such complaints or questions can be handled under the assessment format for a Class I action. This analysis will then be provided by the approving official to the party or parties which raised the matter with FmHA or its successor agency under Public Law 103-354. When several potential impacts are questioned, however, the more detailed assessment format will be accomplished to address these questions.

(h) The potential cumulative impacts of this action, particularly as it relates to other FmHA or its successor agency under Public Law 103-354 actions recently approved in the area or planned, will be analyzed. If the cumulative impact is not minimal and, for example, cumulatively exceeds the criteria and thresholds discussed in paragraphs (e), (f) and (g) of this section, the environmental assessment format for a Class II action will be completed. The actions of other Federal agencies and related nonfederal actions must also be assessed on this basis. When there is a Federal action involved, the environmental review conducted by that Agency will be requested and, if it sufficiently addresses the cumulative impact, can be utilized by the preparer as the FmHA or its successor agency under Public Law 103-354 assessment, assuming the impacts are not significant. (See § 1940.324 of this subpart.) If the other Agency is doing or planning an EIS, the preparer will inform that Agency of our action and request to be a cooperating agency.

(i) The preparer will have the responsibility of initiating the assessment format for a Class II action (exhibit H of this subpart) whenever the need is identified. This should be done as early as possible in the review process. The preparer should not complete the assessment for a Class I action when it is obvious that the assessment format for a Class II action will be needed. The preparer will simply start the more de-

tailed assessment and inform the applicant of the additional data requirements.

(j) Exhibit I will be completed by the approval official in the same instances for a Class I assessment as for a Class II assessment. However, public notification of FmHA or its successor agency under Public Law 103-354's finding of no significant environmental impact will not be required for a Class I assessment. Also, special provisions for completing a Class I assessment for an action that is normally categorically excluded but loses its classification as an exclusion are contained in § 1940.317(g) of this subpart. With the exception of the two preceding sentences, all other procedural requirements of the assessment process, such as the timing of the assessment and the limitations on the applicant's actions, apply to a Class I assessment.

§ 1940.320 Preparing EISs.

(a) *Responsibility.* Whenever the District Director or County Supervisor determines there is a need to prepare an EIS, the State Director will be notified. The EIS will be prepared at the State Office and the State Director will assume the responsibility for preparing it. The State will in turn notify the Administrator of these EISs, as well as those needed EISs identified by a State Office review. EISs will be prepared according to this section. The State Director will be responsible for actions initiated within the State. However, in so doing, the State Director will consult with the National Office to determine that the document meets the requirements of NEPA. State Directors will be responsible for issuing such EISs. However, unless delegated authority by the Administrator, based upon a demonstrated capability and experience in preparing EISs, the State Director will not issue the EIS until reviewed and approved by the Administrator.

(b) *Organizing the EIS process.* Prior to initiating the scoping process outlined below, the preparer of the EIS will take several organizational steps to ensure that the EIS is properly coordinated and completed as efficiently as possible. To accomplish this, the